



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2019-0311; FRL-10004-21-Region 5]**

**Air Plan Approval; Illinois; Emissions Statement Rule  
Certification for the 2015 Ozone Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) submission from the Illinois Environmental Protection Agency (IEPA) dated May 16, 2019. The submission provides IEPA's certification that its existing emissions statement program, titled "Annual Emissions Report", remains in effect and satisfies the Clean Air Act (CAA) emissions statement requirement for the Illinois portions of the Chicago, Illinois-Indiana-Wisconsin (IL-IN-WI) and St. Louis, Missouri-Illinois (MO-IL) nonattainment areas under the 2015 ozone National Ambient Air Quality Standard (NAAQS). Under the CAA, states' SIPs must require stationary sources in ozone nonattainment areas classified as marginal or above to annually report emissions of Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO<sub>x</sub>).

**DATES:** This direct final rule will be effective **[insert date 60 days after publication in the Federal Register]**, unless EPA

receives adverse comments by **[insert date 30 days after publication in the Federal Register]**. If adverse comments are received by EPA, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2019-0311 at <http://www.regulations.gov> or via email to [Arra.Sarah@epa.gov](mailto:Arra.Sarah@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia

submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, Dagostino.Kathleen@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background
- II. IEPA's Emissions Statement Certification and EPA's Evaluation of the State's Submission
- III. Final Action
- IV. Statutory and Executive Order Reviews

## **I. Background**

On October 1, 2015, EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). See 80 FR 65292 (October 26, 2015). Effective August 3, 2018, EPA designated nonattainment areas for the 2015 ozone NAAQS. See 83 FR 25776 (June 4, 2018). The Chicago, IL-IN-WI and St. Louis, MO-IL areas were designated as marginal nonattainment areas for the 2015 ozone NAAQS.

Section 182(a)(3)(B) of the CAA requires states with ozone nonattainment areas classified as marginal and above to submit revisions to their SIPs to require the owner or operator of each stationary source of NO<sub>x</sub> or VOC to provide the state with an annual statement documenting the actual emissions of NO<sub>x</sub> and VOC from their source. Under section 182(a)(3)(B)(ii), a state may waive the emissions statement requirement for any class or category of stationary sources which emits less than 25 tons per year of VOC or NO<sub>x</sub> if the state, in its base year emissions inventory, provides an inventory of emissions from such class or category of sources. States and EPA have generally interpreted this waiver provision to apply to sources (without specification of a specific source class or source category) emitting less than 25 tons per year of VOC or NO<sub>x</sub>.

Many states, including Illinois, adopted emissions statement rules for stationary sources in nonattainment areas under the 1-hour ozone NAAQS, which EPA approved as part of each state's SIP. In cases where an existing emissions statement requirement is still adequate to meet the requirements under the 2015 ozone NAAQS, states may provide the rationale for that determination to EPA in a written statement for approval in the SIP to meet the requirements of section 182(a)(3)(B). See 83 FR 62998, 63001, 63023 (December 6, 2018) and 80 FR 12264, 12291 (March 6, 2015).

## **II. IEPA's Emissions Statement Certification and EPA's**

### **Evaluation of the State's Submission**

IEPA submitted a SIP revision on May 16, 2019 certifying that the previously SIP-approved emissions statement regulations meet the emissions statement requirement for areas designated as nonattainment for the 2015 ozone standard pursuant to sections 110 and 182 of the CAA. In its submission, IEPA stated that it has information collection authority under Section 4 of the Illinois Environmental Protection Act, and that IEPA collects NO<sub>x</sub> and VOC emissions statements under 35 IAC Part 254, titled "Annual Emissions Report," which applies to any source located in an ozone nonattainment area that has the potential to emit 25 tons per year or more of VOC or NO<sub>x</sub> from all emission units during the reporting year. IEPA further stated that these regulations also apply to permitted smaller sources which are required to submit and certify source-wide totals of actual emissions from all regulated air pollutants emitted. Finally, IEPA confirmed, that in general, facilities subject to Part 254 must submit actual emissions data for NO<sub>x</sub> and VOC on an annual basis and must certify that the information provided is accurate to the best of the certifier's knowledge.

EPA approved the "Annual Emissions Report" rules into the Illinois SIP on May 15, 2002 (67 FR 34614). Based on this approval and IEPA's certification, the regulations at 35 IAC

Part 254 are sufficient to meet the emissions statement requirements of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS.

### **III. Final Action**

EPA is approving, as a SIP revision, IEPA's certification that Illinois' "Annual Emissions Report" rules at 35 IAC Part 254 meet the requirements of CAA section 182(a)(3)(B) under the 2015 ozone standard for the Illinois portions of the Chicago, IL-IN-WI and St. Louis, MO-IL ozone nonattainment areas.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after the date of publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert date 30 days after the date of publication in the Federal Register]**. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a

second comment period. Any parties interested in commenting on this action should do so at this time. Please note that, if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective **[insert date 60 days after the date of publication in the Federal Register]**.

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 (82 FR 9339,

February 2, 2017) regulatory action because this action is not significant under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to



address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b) (1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this issue of the Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b) (2) of the CAA.)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control,  
Incorporation by reference, Intergovernmental relations, Oxides  
of nitrogen, Ozone, Reporting and recordkeeping requirements,  
Volatile organic compounds.

Dated: December 30, 2019.

Cheryl L Newton,  
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. In § 52.720, the table in paragraph (e) is amended by adding an entry for “Ozone (8-hour, 2015) certification of emissions statement regulations” following the entry for “Ozone (8-hour, 2008) Nonattainment New Source Review Requirements” to read as follows:

**§52.720 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * * * *				
Ozone (8-hour, 2015) certification of emissions statement regulations	Chicago and St. Louis areas	5/16/2019	[insert date of publication in the Federal Register], [insert Federal Register citation]	Certification that Illinois’ previously approved regulations at 35 IAC Part 254 meet the emissions statement requirements for the 2015 ozone NAAQS
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